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Summary record of the 26th meeting
Held at Headquarters, New York, on Thursday, 27 October 2005, at 10 a.m.

Chairman: Mr. Butagira ..... (Uganda)
later: Ms. Tomič (Vice-Chairman) ..... (Slovenia)

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* Items which the Committee has decided to consider together.

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The meeting was called to order at 10.15 a.m.

Agenda item 71: Human rights questions (*continued*) (A/60/40, 44, 129, 336, 392 and A/60/408)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/60/134, 266, 272, 286, 299, 301 and Add.1, 305, 321, 326, 333, 338 and Corr.1, 339 and Corr.1, 340, 348, 350, 353, 357, 374, 384, 392, 399 and 431; A/C.3/60/3 and 5)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/60/221, 271, 306, 324, 349, 354, 356, 359, 367, 370, 395 and 422; A/C.3/60/2)

(e) Report of the United Nations High Commissioner for Human Rights (*continued*) (A/60/36 and 343)

1. **Mr. Okola** (Independent Expert on the situation of human rights in Burundi) introduced his report (A/60/354), which was based on two visits. The first had coincided with legislative elections held in Burundi on 4 July 2005, at which a high turnout had been registered, which he had witnessed personally. The second had enabled him to establish contacts with members of the newly elected Administration in order to secure their commitment to protect and promote human rights. He had also met with people in all walks of life and had asked them about their participation in the referendum held on the Constitution, promulgated subsequently, on 22 March 2005. Without understanding the Constitution, they had voted for it, believing that it would mean peace and an end to the violence that had so long prevailed in the country. The complicated electoral process, involving five different kinds of election, had been successfully completed. It had been marked by the large number of women voting and standing as candidates, with a significant proportion of them being elected.

2. Despite those advances, human rights violations continued on a daily basis, at the hands of armed elements, including the military. The violations included sexual violence, mainly against young girls, but also young boys; many of them were not reported, either for fear of reprisals or because of lack of confidence in the judicial system. The report of the independent commission of inquiry, set up by the Government of Burundi, into the massacre of more than 160 refugees in the village of Gatumba in August 2004, had still not been released. Similarly, the Truth and Reconciliation Commission, called for both by the Constitution and by a Security Council resolution, had yet to be established. Moreover, the question remained of what should be done with those found by the Commission to be guilty of wrongdoing.

3. Prisons were overcrowded. No consensus had been reached on who should be classified as "political prisoners". Some prisoners were detained for up to 10 years without being charged or tried, while 580 persons were currently on death row. The security situation had improved, but the Forces nationales de libération (FNL) continued to do harm, operating virtually as a terror organization, maiming and robbing civilians and imposing taxes. FNL was reported to be recruiting members of the former rebel movement and enlarging its area of operation. That was a problem needing to be addressed, not only by the Government but also by the international community. Moreover, while some former rebels had been integrated into the regular army. There were problems of discipline and a need for training and consciousness-raising in the fields of human rights and humanitarian law.

4. There were large numbers of displaced persons within the country and many refugees outside it, while some of the returnees encountered difficulties in recovering their land. Widowed women were often unable to assert their ownership of land. Women in general formed one of the groups most affected by the conflict and the growing poverty. A bill establishing women's rights had been awaiting approval by the Council of Ministers and the Parliament for more than five years.

5. The rights of children were regularly violated. The process of demobilization of child soldiers, begun in 2004, was almost completed, but the Government needed assistance in reintegrating them. It had taken a decision to provide free primary education to all children and, while it had benefited from the support of UNICEF, it still lacked sufficient personnel and facilities.

6. Burundi continued to be one of the five countries with the lowest human development index in the world, afflicted by high rates of disease and precarious living conditions and offering its citizens little access to

health care. Despite efforts to improve governance and combat corruption, the situation regarding economic, social and cultural rights had not improved. Reforms in the judicial sector had had a limited impact or had been delayed, contributing to impunity.

7. In conclusion, he reiterated the recommendations set out in his report, particularly with a view to bringing FNL and the Government to the negotiating table, and called on the international community to honour its pledge to support the efforts of the Government of Burundi to establish a lasting peace and ensure respect for human rights.

8. *Ms. Tomič (Slovenia), Vice-Chairman, took the Chair.*

9. **Mr. Utreras** (Chile), on the question of international assistance to the Truth Commission, referred to the set of basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of human rights and humanitarian law adopted by the Commission on Human Rights. He asked the Independent Expert whether he thought that those principles and guidelines could be a source of inspiration for a national initiative in support of victims of such violations in Burundi.

10. **Mr. Nsanze** (Burundi) said that, given recent developments, the human rights situation in Burundi was more favourable than its portrayal in the Independent Expert's report (A/60/354). The following incorrect particulars should be singled out for mention.

11. The lack of progress in the establishment of a Truth and Reconciliation Commission was due to the nullification of the relevant decree. United Nations experts were currently exploring with the Government ways of setting up such a Commission, together with a special tribunal for war criminals. Agathon Rwasa, said in paragraph 12 to head an armed group within FNL that had declared a ceasefire, had never laid down his arms. In paragraph 13 it was reported that not all child soldiers had been demobilized and that FNL had been actively recruiting minors since March 2005. However, the national disarmament, demobilization and reintegration (DDR) process was ongoing and could not be completed until the former rebel forces had been fully integrated into the army.

12. Paragraphs 17 and 18 spoke of members of various armed groups, prison guards, armed bandits and unknown persons as all being perpetrators of numerous violations of the right to life. By thus tarring them all with the same brush and not identifying specific responsibilities, the author of the report was creating confusion. As for the mention in paragraph 20 of the killing of detainees during attempts to escape from prison and the exercise of mob justice, the former was a universal phenomenon, while as for the latter, it was only to be expected in a country without a properly functioning judicial system and was, in any case, declining. He pointed out that during the period covered by the report, a bill had been submitted to Parliament that would have reduced the number of violent crimes, had it not been opposed by the United Nations Operation in Burundi (ONUB), in the name of international law. In paragraph 24 cases were reported of sexual violence without it being mentioned that the unknown persons listed among the perpetrators included members of United Nations peacekeeping forces. While it was true, as noted in paragraph 27, that the number of displaced persons within the country remained high, they were beginning to benefit from a movement of solidarity and could be expected soon to find homes. As for the refugee return movements reported in paragraph 28, they had been increasing apace since the time of the report and included Burundians returning from Europe and even North America who wished to participate in the reconstruction and development effort under the new Government. Land issues did arise but they were settled amicably.

13. The Council of Ministers and the outgoing Parliament had preferred not to approve the bill on matrimonial dispositions, referred to in paragraph 32, until a public awareness campaign had been undertaken because they felt that a hasty land law reform would be detrimental. Once the provisions had been explained to the population at large, it might be possible to hold a referendum on the matter. With respect to children, it was expected that their situation would improve once peace had been totally restored and the Government began to implement its programmes for underprivileged and vulnerable children. A free education programme was already being implemented.

14. Burundi's foreign debt had recently been cancelled and there was every indication that the economy would recover in the short term. The Government was planning to relaunch extensive development projects as soon as possible.

15. Regarding the creation of a Truth Commission composed of international and national members, the Government agreed that international experts should intervene to reorient the administration of justice in Burundi. However, the balanced and fair exercise of the rule of law referred to in paragraph 41 was dependent on political will rather than on the availability of financial, material and logistical resources. The question of political prisoners was not an issue, as the provisions of the Penal Code were perfectly clear. Finally, the deadly assault on Dr. Kassi Manlan, former World Health Organization representative in Burundi, was a matter which concerned not only the Burundians but also Côte d'Ivoire and the United Nations system.

16. The Government of Burundi would consider all the human rights recommendations contained in the report of the Independent Expert. However, it would have preferred to receive a report that was more up to date.

17. **Mr. Werema** (United Republic of Tanzania) asked what specific interventions should be made to alleviate the human rights situation in the current fragile situation.

18. **Mr. Wood** (United Kingdom), speaking on behalf of the European Union, wished to know what could be done to restore confidence in the judiciary and to end impunity for crimes of sexual violence.

19. **Mr. Anshor** (Indonesia) asked how the Truth Commission would contribute to the promotion of human rights.

20. **Mr. Hamson** (Canada) wondered to what extent a lasting peace in Burundi depended on addressing impunity issues.

21. **Mr. Okola** (Independent Expert on the situation of human rights in Burundi), in reply to the representative of Burundi, said that the purpose of the oral presentation was to give an update of the changes which had taken place since the submission of the written report. He had attempted to highlight the positive changes, such as the fact that elections had taken place and that child soldiers were no longer an issue. However, there were still problems which the Government needed to address. For example, the Gatumba massacre had not yet been investigated, and the incidence of rape was rising rather than falling.

22. In response to the issues raised by the representatives of Chile and Indonesia, he said that the Truth and Reconciliation Commission in Burundi should take into account the set of principles referred to by the representative of Chile. During the course of his meetings with Government officials, the Minister for Justice and tribal leaders, it had become clear that all parties agreed on the need for such a Commission, but that there was ongoing disagreement regarding what steps should be taken once the truth was established.

23. In response to the question from the representative of the United Republic of Tanzania, he said that the international community needed to intervene to bring FNL to account. If the armed group did not agree to negotiate, it should be dealt with in an appropriate manner. The international community could also help by offering the Burundians development assistance.

24. Regarding the question of impunity raised by the representative of Canada, the international community should not give the impression that it was indifferent to the severity of the crimes committed in Burundi. Clearly, lasting peace would not be established unless the question of impunity was addressed.

25. **Ms. Samar** (Special Rapporteur on the situation of human rights in the Sudan), making an oral presentation, said that there had been several positive developments in the political process in the Sudan. A new Government of National Unity had been inaugurated; an Interim National Constitution had been adopted; peace talks on Darfur were under way in Abuja, Nigeria; and the new Government of Southern Sudan had just been sworn in.

26. However, there were serious delays in the implementation of the Comprehensive Peace Agreement owing to the fact that the commission responsible for monitoring its implementation had not been set up. Also, national legislation had not yet been harmonized with the Interim National Constitution, which recognized international human rights standards.

27. The people of the Sudan had seen little change in their everyday life since the formation of the Government of National Unity. Emergency laws were still in place in Darfur and the eastern part of the country, and people continued to be arbitrarily arrested, tortured and killed. Basic rights such as access to food, shelter, health and education were not guaranteed.

Civilians were being harassed and killed in villages and camps of internally displaced persons (IDPs) in all three regions of Darfur, and armed groups and unknown perpetrators continued to kill in the south and the north. In south Darfur, there were reports of harassment and attacks on IDPs by armed men outside the camps. Crimes of rape and sexual violence were committed with impunity, largely in IDP camps. Although the Government had taken some steps to deal with the issue, there had not been any tangible results so far.

28. Putting an end to impunity and ensuring accountability were of the utmost importance. However, it was unclear whether or not the Government was truly committed to bringing the perpetrators of human rights violations to justice. The issue of truth and reconciliation in southern Sudan and Darfur needed to be addressed by the Government and other relevant actors, including civil society. Political prisoners were still being held in various prisons and, although the United Nations Mission in the Sudan (UNMIS) had been allowed access to many detention facilities throughout the country, it had not been granted access to most national security facilities.

29. With regard to freedom of association and expression, the President had issued a decree on the organization of humanitarian voluntary work but a number of non-governmental organizations and media representatives were concerned that it violated rights guaranteed by the Interim National Constitution and did not comply with international human rights conventions to which the Sudan was a party. Media representatives had also expressed concern that the legislation regulating their activities had not been revised in accordance with the new Constitution.

30. The Special Rapporteur called on all parties to the conflict to cease hostilities and to respect humanitarian law and human rights law, particularly with regard to the protection of civilians. She made a series of recommendations to the Sudanese authorities which included the prompt implementation of the Comprehensive Peace Agreement; the deployment of police in Darfur to protect civilians, particularly IDPs and women; the disarmament of all militia groups; a comprehensive legal reform; the accession to the Convention on the Elimination of All Forms of Discrimination against Women and the ratification of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment; ending impunity for perpetrators of human rights violations; the ratification of the Rome Statute of the International Criminal Court; unrestricted access for UNMIS human rights officers to national security facilities; the dignified and humane relocation of IDPs; the establishment of an independent national human rights commission in accordance with the Paris Principles; increased participation of women in the implementation of the Comprehensive Peace Agreement, particularly at the decision-making level; and the development of measures to end abduction and prosecute abductors.

31. With respect to the international community, she said that UNMIS and the international community should provide assistance and monitor the progress made in the implementation of the Comprehensive Peace Agreement. The international community should honour the pledges made at the Oslo Donors' Conference on the Sudan and in bilateral agreements and should assist the Sudan in its DDR programmes. Finally, UNMIS, the African Union and humanitarian agencies should strengthen their presence in order to protect human rights throughout the country, particularly in southern and eastern Sudan, where their presence was insufficient.

32. **Mr. Hamson** (Canada) said that his delegation shared the concern of the Special Rapporteur that recent Sudanese legislation on the organization of humanitarian voluntary work would threaten human rights protected under the Constitution, the Comprehensive Peace Agreement and human rights instruments to which the Sudan was a party. More information was needed on the ways in which the United Nations was working with the Government of the Sudan to ensure that that legislation was in accordance with international human rights standards and did not hinder the valuable work of humanitarian organizations. He also noted with concern the attacks on civilians, including in IDP camps, as well as the increased violence and targeting of humanitarian workers in Darfur. He wondered whether the Special Rapporteur had put forward any specific recommendations on her visit to enhance the protection of civilians and security of humanitarian workers.

33. **Mr. Wood** (United Kingdom), speaking on behalf of the European Union, said that active steps had been taken to tackle the climate of impunity in Darfur in accordance with Security Council resolution 1593 (2005). He wished to know whether the Government of

the Sudan was collaborating with the International Criminal Court to ensure that the perpetrators of attacks against humanitarian personnel were brought to justice and how the Government and the parties to the conflict were ensuring the unimpeded access of humanitarian organizations to areas of concern in the Sudan. More information was needed on the steps taken to disarm the Janjaweed militias in Darfur. Lastly, further details were needed on what was being done to prevent the widespread practice of arbitrary detention and torture.

34. **Mr. Gzllal** (Libyan Arab Jamahiriya) said that significant progress had been made in the Sudan, including the ratification of the Comprehensive Peace Agreement and the establishment of the new Government of National Unity. More time was needed, however, for the implementation of the Agreement as well as the conclusion of a peace agreement on Darfur. The human rights situation in the Sudan should not be blackened unnecessarily. The Sudan would emerge from the crisis with the help of humanitarian and material assistance and less foreign interference.

35. **Ms. Levin** (United States of America), noting the delay in the establishment, under the Comprehensive Peace Agreement, of a special commission to ensure that the rights of non-Muslims were protected, said that she wished to know what steps had been taken to protect non-Muslims from official discrimination.

36. **Mr. Alaei** (Islamic Republic of Iran), noting the signing of the Comprehensive Peace Agreement, the establishment of a Government of National Unity and the ongoing peace talks on Darfur, said that the human rights situation in the Sudan was a reflection of the conflict in Darfur. The only way to address that situation was to achieve a peace settlement on Darfur.

37. **Mr. La** Yifan (China), welcoming the recommendations made by the Special Rapporteur in her oral report, especially regarding ways in which the international and African regional organizations might support the Government of the Sudan in its efforts to increase capacity, said that the international community should recognize the efforts made by the Sudan to achieve national reconciliation and improve the well-being of its citizens. He would welcome further information on the economic and social causes of the tremendous challenges facing the Government of the Sudan and on steps which might be taken by the international community to help the Sudan to confront them.

38. **Mr. Amorós Núñez** (Cuba) said that he concurred with the representative of the Libyan Arab Jamahiriya on the need for more time to implement the Agreement. He wished to know whether the Government of the Sudan had been allowed to corroborate the points of view expressed by the Special Rapporteur on the information which she had received on her country visit. The issue raised by China on the steps which might be taken by the international community to promote economic, social and cultural rights in the Sudan had not been reflected in the Special Rapporteur's oral report and required serious consideration.

39. **Mr. Khalil** (Egypt), noting some of the positive steps taken by the Government of the Sudan such as its cooperation with the Special Rapporteur, as well as the establishment of a new Government of National Unity and adherence to a number of international agreements, said that human rights issues must be addressed on the basis of cooperation and mutual assistance rather than accusations and confrontation. He agreed with the representative of China on the need to take into account the economic, social and cultural situation in the Sudan.

40. **Mr. Manis** (Sudan) said that the authorities of his country would cooperate fully with the Special Rapporteur and had in fact done so during her recent visit to the Sudan, as she had stated in her presentation. Such cooperation was a confirmation of his country's commitment to work through multilateral diplomatic channels for the protection and enhancement of human rights through cooperation and constructive dialogue. The many positive aspects mentioned by the Special Rapporteur were the natural result of the Government's policies to address the human rights situation, particularly in Darfur, and stemmed from the Comprehensive Peace Agreement, which had brought to an end the longest war that had ever occurred in Africa.

41. Following the signing of the Comprehensive Peace Agreement the previous January, many of the steps required for the full application of the Agreement had been completed. The Interim Constitution, which had been approved the previous July, included an entire chapter on the enhancement and protection of human rights and fundamental freedoms. A Government of

National Unity had been formed the previous September, the legislature, comprising the National Assembly and the Council of States, had been established, governors had been appointed in the regions, the legal procedures had been completed for the establishment of the Bank of the Sudan in the South, and it was expected that by November 2005 all the commissions specified in the peace agreement would be set up.

42. The end of the war had opened up the prospect of sustainable development, stability and peace and that required the backing of the international community so as to ensure the full implementation of the agreement in order to provide an appropriate climate for the promotion and protection of human rights, including political, civil, cultural, social and economic rights and the right to development.

43. The conflict in Darfur had adversely affected the humanitarian situation and had caused suffering to the people in the three Darfur states, even though the Government had vigorously addressed the main causes of the conflict. Despite the vast area of the Sudan and the limited resources at its disposal, the Government had done much to alleviate the problems, in particular by signing a ceasefire agreement with the armed groups and a memorandum of understanding with the United Nations. The African Union had commended the progress that had been achieved. In addition, a special criminal court had been established in Darfur to try those who were found to have been involved in violations of human rights, and national committees had been set up to investigate cases of violence against women.

44. The Special Rapporteur in her statement had mentioned that her visit to the Sudan was intended to give her an initial idea of the human rights situation. His delegation looked forward to her next visit to the Sudan, which would enable her to establish the facts in greater detail, by which time the procedures for the implementation of the Comprehensive Peace Agreement would have been completed.

45. **Mr. Ziegler** (Special Rapporteur of the Commission on Human Rights on the right to food) said that global hunger continued to increase, despite the commitment of Member States to halve hunger by 2015 and the fact that the world could produce enough food to feed more than double the world's current population.

46. As Special Rapporteur, he had carried out an urgent mission in July 2005 to the Niger, where around 3.6 million people had been facing acute malnutrition. There had been practically no response from the international community to the famine in that country, despite the numerous appeals by the Government of the Niger and the United Nations agencies since November 2004 as well as an awareness-raising visit to the Niger by the Secretary-General in August 2005. For instance, an appeal for $16.2 million launched by the United Nations in May 2002 to cover essential needs had raised only $3.8 million by July 2005. While bilateral emergency assistance had been provided by some countries, the international community had failed to mobilize its efforts to tackle malnourishment in the Niger and many other African countries.

47. A funding shortfall had obliged the World Food Programme to cut back essential food rations for refugees in Africa, where it had been unable to provide even the minimum daily calorie requirement for the past eleven months.

48. Indigenous people in particular suffered disproportionately from hunger and malnutrition. The draft United Nations declaration on the rights of indigenous peoples, which had been under discussion since 1995, would offer greater protection to indigenous peoples since it recognized their rights, inter alia, to self-determination, land and resources. He regretted that the declaration had been blocked internationally by some countries and called on the international community to enter into negotiations for its adoption.

49. Increasingly powerful international organizations, such as the World Trade Organization, should recognize that they had responsibilities to respect all human rights laws, including the right to food. In that connection, industrial countries participating in the Doha Round must put an end to their unfair subsidies and dumping practices. Only national Governments, through their foreign policies, could influence such organizations to respect the right of all to food.

The meeting rose at 1 p.m.